

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:11-HC-2210-BO

UNITED STATES OF AMERICA)	
Petitioner,)	
v.)	SETTLEMENT AGREEMENT
)	
MICHAEL MCBRIDE,)	
Respondent.)	

WHEREAS the United States, Petitioner, certified Michael McBride, Respondent, as a sexually dangerous person on October 27, 2011; and

WHEREAS an initial certification of sexually dangerous person was based upon a Bureau of Prisons' forensic evaluation determining that Respondent met all the criteria for civil commitment as a sexually dangerous person under 18 U.S.C. § 4248 in that: (1) Respondent previously engaged or attempted to engage in sexually violent conduct or child molestation, as evidenced by his prior convictions in a general court-martial convened at Marine Corps Air Ground Combat Center, Twenty-nine Palms, California (No. 07-93), for engaging in sexual conduct with five male victims under the age of ten and was sentenced to thirty-five years imprisonment, suspended to twenty years imprisonment; respondent was also convicted under 18 U.S.C. § 2250(a) on January 4, 2009 for failure to register as a sex offender, from which conviction respondent is ordered serve thirty-six months

imprisonment and to have lifetime supervised release; (2) Respondent currently suffers from Pedophilia; and (3) as a result of his serious mental illness, abnormality or disorder, Respondent would have serious difficulty in refraining from sexually violent conduct or child molestation if released; and

WHEREAS an additional forensic evaluator initially determined that Respondent met the same criteria for civil commitment, but after obtaining additional information in the course of a forensic interview, determined that he would not meet the third element given his amenability to treatment and a lifetime term of supervised release; and

WHEREAS Respondent's additional evaluator also determined that Respondent did not meet the third element; and

WHEREAS based upon the foregoing concurrence of two additional evaluators that Respondent does not meet the criteria for civil commitment, the parties have agreed to settle and conclude this matter;

IT IS THEREFORE AGREED between the parties, the United States of America, by and through the United States Attorney for the Eastern District of North Carolina, and Michael McBride, by and through his counsel of record, Katherine Shea, that this matter should be concluded in accordance with terms and conditions of this agreement as follows:

1. This agreement constitutes the full and complete record of the agreement of this matter. There are no other terms of this agreement in addition to or different from the terms contained herein.

2. Respondent admits and stipulates that the United States lawfully certified him as a sexually dangerous person under the Adam Walsh Act, as codified in 18 U.S.C. § 4248 pursuant to procedures established in 18 U.S.C. § 4248(a) and that said statute was upheld as constitutional in United States v. Comstock, 130 S. Ct. 1949 (2010), and again on remand to the Fourth Circuit of Appeals, in United States v. Comstock, 627 F.3d 513 (4th Cir. 2010).

3. Respondent admits and stipulates that the criminal judgment against him in the matter of United States of America v. Michael McBride, in the U.S. District Court for the District of New Hampshire, Docket No. 1:09-cr-119-01-PF on January 5, 2009, imposed upon him a Life term of supervised release. A copy of the criminal judgment is attached to the proposed motion to dismiss as Exhibit B.

4. Respondent agrees and promises that, in consideration of the Government's agreement to voluntarily dismiss this action with prejudice, he will not collaterally attack the order of supervised release contained in the criminal judgment against him. Respondent further agrees and consents to the release of all

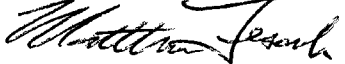
forensic psychological evaluations and other related materials, within the BOP system of records or part of the record of this case, to the appropriate United States Probation Office for the purpose of coordinating psychological, psychiatric, and other mental health treatment pursuant to the terms of his supervised release.

5. Petitioner agrees and promises that, in consideration of Respondent's admissions and stipulations set out in Paragraphs 2 through 3 above and Respondent's agreements and promises in Paragraph 4 above, the United States will file a motion under Federal Rule of Civil Procedure 41, asking the Court to dismiss this action with prejudice and to lift the stay on Respondent's release from imprisonment.

6. Petitioner and Respondent jointly request that the Court conduct a hearing to inquire of counsel for the United States, Respondent, and Respondent's counsel whether each of them personally affirms in open court that the terms and conditions of this settlement agreement have been entered and undertaken knowingly and voluntarily after having had adequate opportunity to seek counsel.

Respectfully submitted, this the 3rd day of April, 2012.

THOMAS G. WALKER
UNITED STATES ATTORNEY

BY: 
MATTHEW L. FESAK
Assistant U.S. Attorney




MICHAEL MCBRIDE
Respondent



KATHERINE SHEA
Attorney for Respondent

APPROVED, this 21 day of May, 2012.


TERRENCE W. BOYLE
United States District Judge